GOODBYE IA's Final Issue page 2

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Bot inside

Intellectual Ammunition

Research and commentary for elected officials from the nation's leading think tanks.
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Potshots

I won't be wronged, I won't be insulted, and I won't be laid a hand on. I don't do these things to other people and I require the same from them.

JOHN WAYNE IN "THE SHOOTIST"

I am advising the former president, the governor of Florida, and the president of the United States—I guess you could say I rule the world.

FORMER FIRST LADY BARBARA BUSH

We hold that what one man cannot morally do, a million men cannot morally do, and government, representing many millions of men, cannot do.

HERBERT AUBERON

If someone can file a class-action suit against McDonald's for causing obesity, how long before Chicago sports fans can file class-action suits for causing depression?

ELLIOTT HARRIS, *CHICAGO SUN-TIMES*

Where politicians once quoted Shakespeare, the Bible, Thomas Jefferson, and Mark Twain, they now refer to Disney cartoons, game shows, movies, and sitcoms. Journalists are even worse.

HUMPTY DUMPTY, *CHRONICLES*

Well-behaved women rarely make history.

ANITA BORG

The Wisdom of Conservative Blacks

by Lee Walker

As we enter the twenty-first century, there is little debate over whether America is becoming increasingly conservative. Recent elections and opinion polls support that fact. Yet there are almost as many definitions for the term "conservative" as there are scholars and individuals representing conservative thought in the marketplace of ideas.

I believe the word "conservative" is best used as an adjective and not a noun. Thus, conservatism is best understood as a state of mind and a type of character, a way of looking at the social order. It's a set of traditional principles and a philosophy. Conservative Americans want to preserve the best of the past and make improvements; conservatism is not about radical change unless the times demand it.

CONSERVATIVE BLACKS

In the black or African-American community, the first institution of conservative thinking was the black church. It has been the traditional institution, inspirational force, and foundation for black leadership for two centuries.

In 1966, George S. Schuyler, former journalist for the *Pittsburgh Courier*, wrote a popular autobiography titled *Black and Conservative*. Schuyler described the American black as the "outstanding example of American conservatism: adjustable, resourceful, adaptable, patient, and restrained."

Booker T. Washington also described black conservatism, noting: "The Negro should acquire property, own his own land, drive his own mule hitched to his own wagon, milk his own cow, raise his own crop, and keep out of debt, and when he acquired a home he became fit for a conservative citizen." Washington was describing a middle-class family lifestyle of self-reliance.

Blacks have much to conserve, beginning with traditional family values, the institution of the church, a legacy of strong faith in the value of an education, self-reliance and an improved financial outlook. I am reminded of my growing up in Alabama, when parents and other adults said to young folks and girls in particular, no sex or babies before marriage, don't come home from school with bad grades, and don't be late for Sunday school. If I or my sister

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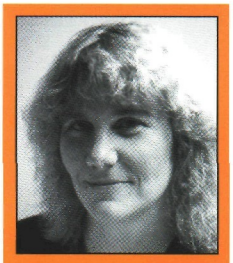

News from the Heartland

by Diane Carol Bast
Editor

The issue of *Intellectual Ammunition* you hold in your hands will be the last you receive from The Heartland Institute. The decision to cease publication was not made lightly ... but we know it's the right thing to do.

IA was launched in May 1992. At the time, we described Heartland as part of an "informal network of some 70 think tanks around the country." Cooperation among those groups was rare. *IA* was the first policy magazine to serve as a clearinghouse for their work.

In 1992, fax-on-demand—which Heartland pioneered for the distribution of public policy research and commentary—was the cutting-edge of information delivery. The Internet was mostly a gleam in the eyes of computer geeks and ivory-tower academics.

FOUR MONTHLY NEWSPAPERS

Eleven years later, Heartland remains at the center of a think tank network that now numbers more than 350, and we continue to serve as a clearinghouse for their work. But *Intellectual Ammunition* is no longer the best way to carry out our mission. Having long encouraged policymakers to eliminate unnecessary, duplicative, and expensive programs, it's time we did the same.

Heartland currently sends three monthly newspapers—*Environment & Climate News, Health Care News,* and *School Reform News*—to every state and national elected official across the country, plus tens of thousands of grassroots activists nationwide. In a few months, we expect to launch *Budget & Tax News*, addressing what we know to be a top priority for elected officials and their constituents.

With these four newspapers, Heartland will reach policymakers once a week with publications that focus on the top issues policymakers address, offering the best available research and commentary from more than 350 think tanks nationwide.

Heartland also publishes a newsletter addressing tort reform issues, *Lawsuit Abuse Fortnightly*, and is contemplating another to address telecom and technology. Even without *Intellectual Ammunition*, we've got every public policy base well covered.

GO TO WWW.HEARTLAND.ORG

Over the past decade, Heartland has been quick to take advantage of technology. Our path-breaking *PolicyFax* system is now *PolicyBot*, the Internet's largest collection of free-market research and commentary. *PolicyBot* offers more than 11,500 studies and commentaries on every public policy issue imaginable, searchable by topic, keyword, author, publisher, and date.

Our award-winning Web site, **www.heartland.org**, attracts hundreds of thousands of visitors every month. Back issues of our newspapers and newsletters, plus *Heartland Policy Studies*, shorter commentaries, and books, are readily available on the site.

We've also launched issue-specific email lists, currently addressing education, environment, health care, and tort reform. New lists are launched as soon as we see there's a demand for them.

STAYING IN TOUCH

According to a May 2002 survey, more state elected officials recognize and trust The Heartland Institute than any other free-market think tank. That's an asset we don't intend to squander; even in the absence of *Intellectual Ammunition*, state policymakers will remain our most prized audience.

You can, of course, help us serve you better.

- Start by joining **Heartland's Board of Legislative Advisors**—a group of more than 270 elected officials who help keep Heartland attuned to policymakers' needs. Our Legislative Advisors recommend topics and documents for PolicyBot; receive priority consideration for their own writings in Heartland publications; may request extra copies of Heartland publications for distribution to constituents or colleagues; attend Heartland's Anniversary Benefit Dinners free of charge; and are invited to special advisor events at ALEC and NCSL conventions. If you're not already a member of this valuable and valued group, contact Public Affairs Director Greg Lackner at 312/377-4000, email **lackner@heartland.org**.
- Make sure we have your **correct mailing address**. Check the mailing information on this issue of *Intellectual Ammunition*. If it is wrong in any way, let us know. Call Latonya Harris at 312/377-4000, email **harris@heartland.org**.
- Consider signing up for **email delivery of Heartland publications**, and encourage your policy staff to subscribe as well. You'll receive advance notice of soon-to-be-released Heartland publications and invitations to events across the country. Just click on the Subscribe link at **www.heartland.org** to choose the lists of most interest to you.
- **Visit our booth** and **attend our social events** at annual conventions hosted by the National Conference of State Legislatures, American Legislative Exchange Council, and Council of State Governments. See pages 4 and 9 for details about upcoming NCSL and ALEC ice cream socials.
- **Attend our Anniversary Benefit Dinner**—one of the country's biggest annual celebrations of freedom! Mark your calendar for Thursday, October 16 and plan to join us in Chicago. If you're a member of Heartland's Legislative Advisory Board, you'll receive more information ... and complimentary tickets ... in September.
- Finally, **let me hear from you!** Although I'll no longer be editing *Intellectual Ammunition*, I'm not leaving Heartland or abandoning you. I remain Heartland's Vice President, editor of its many publications, and manager of its Web site. And I remain eager to hear from you. If there's anything I can do to make sure Heartland does what you need us to do, please let me know.

  312/377-4000 phone
  312/377-5000 fax
  dbast@heartland.org

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President: Joseph L. Bast ❖ **Publisher:** Nikki Saret ❖ **Editor:** Diane Carol Bast ❖ **Art Director:** Kevin M. Fitzgerald ❖ **Graphic Design:** Ross Van Overberghe

Contributing Editors: Editor Diane Carol Bast dbast@heartland.org; **Education** David Kirkpatrick tchrwrtr@aol.com; **Environment** Jane Shaw shaw@perc.org; **Health Care** Twila Brase twila@cchc-mn.org; **Law** John Kramer jkramer@instituteforjustice.org; **Privatization** Lynne Kiesling lynnek@rppi.org; **Regulation** Susan E. Dudley sdudley@gmu.edu; **Taxes** Bill Ahern ahern@taxfoundation.org; **Technology** Bartlett D. Cleland bcleland@ipi.org.

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continued from page 1

brought friends home with us, my grandmother wanted to know who their parents were.

The black church took a leading role in cultivating and maintaining such attitudes.

It was conservative philosophy that black Americans utilized to build churches, insurance companies, and colleges, and to develop practical skills. They did not rely upon welfare programs. American history verifies the progress of black Americans before the 1930s.

Since the introduction of "Black Studies" as an accredited college curriculum more than three decades ago, there has been an increase in the number of noted scholars interested in the subject of blacks in American history. Thus, there is a closing of some of the gaps in race history analysis. Examples that come to mind include several books and a television story on Sally Hemings and Thomas Jefferson. Louis R. Harlan, professor of history at the University of Maryland, was awarded the 1984 Pulitzer Prize for his two-volume biography of Booker T. Washington. This ended up being a 25-year project for Harlan, making Washington the first black American to receive such recognition.

Even with this new attention to blacks in American history, we continue to be in need of scholarly attention and analysis. For example, neither the 1993 *African American Encyclopedia* nor the 1997 *African American Almanac* included the terms "conservative" or "conservatism." Yet the label accurately describes such prominent blacks in history as Mary McLeod Bethune, George S. Schuyler, Ralph Ellison, Roy Wilkins, Rev. Joseph Jackson, and others.

MY OWN ODYSSEY

My own conservative leanings were strongly shaped by my childhood spent in the deep conservative South (Troy and Montgomery, Alabama), being raised primarily by my grandmother, and attending church regularly. My attitude was further developed with an undergraduate degree in economics and business, which led to a career in corporate America. That career exposed me to public policy issues in the marketplace and the government.

My interest led me to attend a two-day Black Alternatives Conference in 1980 in San Francisco. The conference was described by the media as a conference of "black conservatives." While all in attendance were not conservatives, the dominant focus was on economically and socially conservative themes and programs. The participants, mostly blacks, were business people, academics, professionals (lawyers, doctors, journalists), and community activists.

The central figures organizing the conference and selecting the 23 speakers were Dr. Thomas Sowell, an economist and senior fellow at the Hoover Institution at Stanford University; and Dr. Henry Lucas, Jr., DDS, board of directors, Institute for Contemporary Studies.

> *Conservative ideas have been a part of black religious, business, and social thought since the eighteenth century.*

Sowell, who identified himself as neither a Republican nor a Democrat, opened the conference as follows:

> This is a historic opportunity. The economic and social advancement of blacks in this country is still a great-unfinished task. The methods and approaches currently used for dealing with this task have become familiar over the past few years and they demand reexamination.

That statement is just as true today as it was two decades ago.

The conference led me to further research, and in particular many hours spent reading the papers of Booker T. Washington. At the time Washington wrote, most of black America was still on the bottom rung of the ladder in a system based on capitalism. I was impressed by his insightful emphasis on education and economic development, rather than political power, as the first priority for black Americans coming out of a failed Reconstruction period.

CONSERVATIVE BLACKS TODAY

The importance of conservatism to black America was paid great attention at the 1980 conference. Today, I run the organization that resulted from that meeting, The New Coalition for Economic and Social Change.

Conservatism in America contends that by being self-reliant, getting an education, and holding dear the importance of family values, all Americans should have the opportunity to achieve at least a comfortable middle-class lifestyle. If you think about it, the idea of conservatism is nothing short of the "American Dream."

There are several voices within the conservative black community. They are not merely an "echo" of each other, but individuals with an identity and a message in the spirit of Booker T. Washington, Frederic Douglass, and Mary McLeod Bethune.

History never truly repeats itself, though its themes do recur in different variations, as is taking place now with renewed interest in conservatism. Blacks cannot afford to be silent in national debates about how the country will be governed as times and conditions change.

Lee H. Walker is director of The New Coalition at The Heartland Institute and a member of Heartland's Board of Directors. This article is derived from a speech he delivered on April 24, 2003 to Olive-Harvey College's 26th Annual Black Studies Conference.

FOR MORE INFORMATION...

The New Coalition at The Heartland Institute aims to develop and promote a conservative multicultural perspective on economic and social policies.

Its programs include monthly seminars and a speakers bureau; a regular *Crain's Chicago Business* column written by New Coalition Founder and Director Lee H. Walker; occasional studies and research papers; and a quarterly newsletter, *New Coalition News & Views*.

Membership in The New Coalition is just $19 ($39 for a combined Coalition/Heartland Institute membership). Contributions, made payable to The Heartland Institute and earmarked for the work of The New Coalition, are tax-deductible.

The New Coalition at
The Heartland Institute
19 South LaSalle Street #903
Chicago, IL 60603
312/377-4000; fax 312/377-5000
http://www.newcoalition.org
lwalker@newcoalition.org

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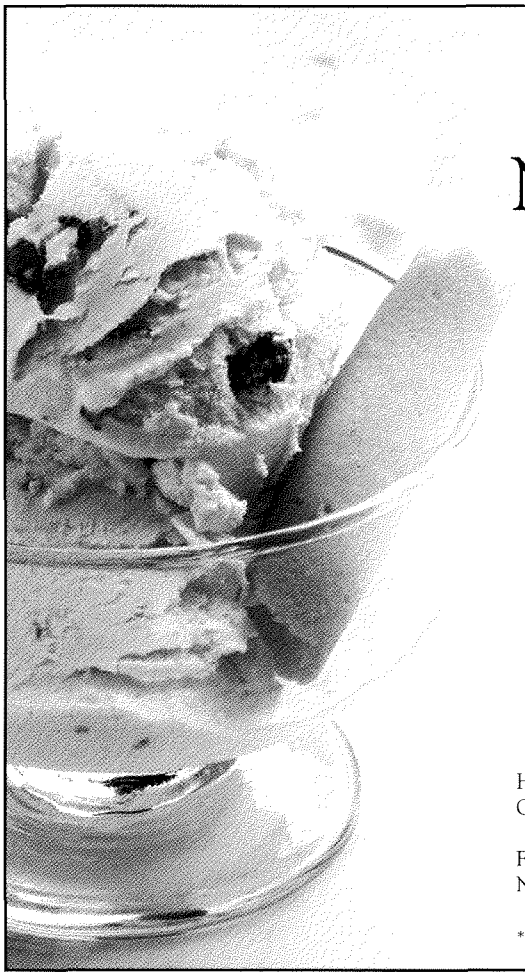

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* winners must be present

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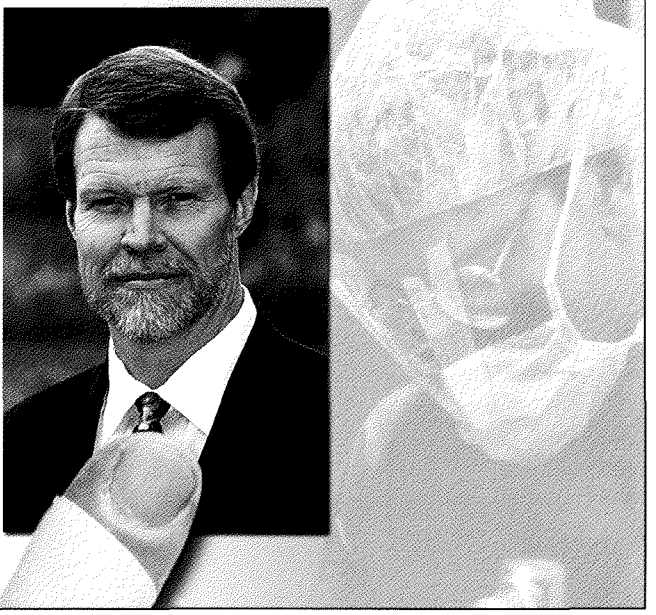
Who is Dr. Merrill Matthews?

Merrill Matthews Jr., Ph.D., is a Heartland Senior Fellow specializing in health care policy and a visiting scholar with the Institute for Policy Innovation. Dr. Matthews is past president of the Health Economics Roundtable for the National Association for Business Economics, the largest trade association of business economists, and health policy advisor to the American Legislative Exchange Council, a bipartisan association of state legislators.



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Education

David W. Kirkpatrick

David W. Kirkpatrick is senior education fellow for the U.S. Freedom Foundation. **http://www.schoolreport.com**

A Class-ic Mistake

Periodically, public education is seized by a fad regardless of whether it has any real effect. One such is the rush toward reducing class size to some arbitrary number.

Class size *does* make a difference. But that difference depends on many variables, including grade level, the types of students, the subject matter, the skills of the teacher, the teaching method, etc.

California, under former Gov. Pete Wilson, mandated smaller class sizes in some grades. An initial cost of $1.5 billion, now grown to $4 billion, resulted in a mad scramble to find teachers and space. Even child-care centers and libraries were converted to classrooms, hardly a net gain.

Peter Jennings reported on February 17, 1998 that 21,000 non-certified teachers were hired. Jennings cited a district that reduced class size only to see student achievement go down. Another district chose not to reduce class sizes, because eight new teachers and eight new classrooms would have cost more than $1,000,000—money the district did not have.

Even if the vast sums of money to do so were available, it makes no sense to spend money across the board on a fad that has failed to prove itself effective.

WEIGH BENEFITS AGAINST COSTS

Research has concluded that class size, by itself, is unimportant. Eric Hanushek, former chairman of the Economics Department at the University of Rochester, analyzed 152 class size studies. He found only 14 reported positive relationships; about an equal number showed negative results; while most showed no significant difference either way.

Students in other nations are commonly in larger classes. The children of the Vietnamese "boat people" in the 1970s performed very well in U.S. public schools, scoring, for example, in the 95th percentile in mathematics. Yet in Vietnam they had been in schools where the average class size was 75. Japanese high school classes typically have 50 students. South Korea's students have ranked first in math among 20 nations, yet the average class size there is 43 students.

Oddly enough, the argument that classes in the U.S. are too large has intensified at the same time the student-teacher ratio and average class sizes here have declined. From about 37 students per teacher in 1900, the average class size dropped to 27 in 1955, 18 in 1986, and about 17 today.

Assume that reducing class sizes further, say to 15 in the first two grades, would bring achievement gains of 14 percent, as one study suggests. To go from the current average in those two grades of about 25 students per class to 15 means there must be five teachers and five classrooms for every 75 students, compared to the present three of each. That's a cost increase of 67 percent—nearly five times the increase in achievement that would be gained.

And what does a 14 percent achievement gain mean? If students rank in the 35th percentile, a 14 percent gain would move them, at great expense, from the 35th to the 42nd percentile ... still leaving them well below average.

OR MAYBE TOO SMALL?

Class size is invariably discussed in terms of classes being too big. But many classes are too small. Increasing the student-teacher ratio in those classes would save money that could be spent in situations where smaller classes could be proven useful.

During World War II, the U.S. Army taught typing in rooms so large the instructor—a non-certified soldier-teacher—used a microphone and students listened on headphones. Typing is a mechanical skill, requiring only repetition until it becomes a habit.

A public school not only *could* do this, at least one has. In the 1960s, Melbourne, Florida High School assigned one typing teacher to a class of 125 students, five classes per day, for a daily student-load of 625. Principal B. Frank Brown said, "The surprising thing is that we never thought of this before."

The most common teaching method to this day is the lecture. A high school teacher may have six classes per day of 25 students (I used to have about 33). Presenting a lecture six times, once to each class, is highly inefficient. Would it not be better for the teacher to give the lecture once to the 150 students as a group, and have five periods available for other purposes?

Even if the vast sums of money to do so were available, it makes no sense to spend money across the board on a fad that has failed to prove itself effective. To spend billions of dollars on an ineffective practice consumes funds that could be better used where there are demonstrated needs, or on reforms proven to be effective.

FOR MORE INFORMATION...

Class-Size Effects in School Systems Around the World: Evidence from Between-Grade Variation in TIMSS. Estimates the effect of class size on student performance in 18 countries, combining school fixed effects and instrumental variables to identify random class-size variation between two adjacent grades within individual schools. Smaller classes exhibit beneficial effects only in countries with relatively low teacher salaries. (Program on Education Policy and Governance, February 2002, 64pp.)

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Environment

Holly L. Fretwell

Holly L. Fretwell is a research associate of PERC—the Center for Free Market Environmentalism in Bozeman, Montana.
http://www.perc.org

State Parks—Untapped Natural Wealth

Across the country, state governments drowning in red ink are looking for ways to save money or increase revenues. Fortunately, there is a step they can take that can cut expenses and increase returns—while better serving citizens and improving the natural environment at the same time. The step: making their state parks financially more self-sufficient.

State parks are immensely popular. According to the National Association of State Park Directors, state parks receive more than 766 million visits per year. More people visit state parks than visit national parks, national forests, and other federal lands combined.

Already, state parks generate a higher percentage of their operating funds from park visitors than do national parks—an average of 40 percent compared with 11 percent. When other sources of funding, such as private donations and concessions, are included, the figure reaches 48 percent.

New Hampshire's state park system has been financially self-supporting since 1991—it even pays for some of its capital investments. Vermont has funded its operations out of user fees and concession revenues since 1993. Indiana and Nebraska obtain 65 percent of their operating budgets from user fees.

This reliance on visitors has important benefits, and not just financial ones. State park managers have an incentive to serve their customers: the people who visit the parks. Catering to their customers gives managers an incentive to protect the natural beauty of their states—and the revenues to do so.

STATE VS. NATIONAL PARKS

Because national parks are funded almost entirely by taxpayers, they charge little or nothing for their services. As a result, in all but the most famous parks, the services offered are often sparse.

Consider Wind Cave National Park and Custer State Park, next to each other in South Dakota. The state park abounds with activities, from fishing and climbing to horseback riding, hay rides, pack trips, and "Buffalo Safari Jeep Rides"—each for a fee. By contrast, Wind Cave National Park provides few services other than a tour of its cave.

At the Big Bend Ranch Complex, a state park in Texas, activities range from a Longhorn cattle drive to courses in desert photography, rock art, and desert survival. Nearby Big Bend National Park offers few activities other than hiking, fishing, climbing, and camping.

The greater number of activities offered by state parks does not mean their environmental assets are overused. Big Bend Ranch, for example, has adopted a visitor management policy to protect its natural features from too much human impact. By contrast, Big Bend National Park allows visitors to roam as they wish—it doesn't have the budget to monitor visitors' impact.

MANY FACES OF SELF-SUFFICIENCY

Legislators contemplating self-sufficient parks may worry about citizen resentment of higher fees. But self-sufficiency isn't just a matter of "user fees." Self-sufficiency means parks must offer more value to keep customers coming. When states must generate revenues, they become creative and entrepreneurial.

Although states are well ahead of national parks in recognizing the benefits that can flow from self-sufficiency, there is much more to be done.

I recently studied Harriman State Park in eastern Idaho. Set in a 16,000-acre mountainous wildlife refuge, Harriman shelters the rare trumpeter swan and offers world-class fishing on the Henry's Fork of the Snake River.

Too few state governments see the potential of their natural resources—their hills, streams, lakes, and grasslands.

Changes in its revenue generation could both raise money and ensure better protection of its natural resources.

Harriman currently charges a $3 fee for each vehicle that enters the park, plus additional fees for overnight accommodations. But horseback riders, hikers, and bikers come in free of charge. Park managers have no control over the impact these "free riders" have on the park's natural resources. Merely requiring all current park visitors to pay a $6-per-person entry fee would enable the park to cover half its budget with those entry fees alone. (New Hampshire's state park system made such a change after it became financially autonomous in 1991.) Another way for Harriman to increase revenues while providing value for visitors would be to turn an old barn into a lodge and increase overnight accommodations.

Because each state is different, the nation is full of fascinating experiments. But too few state governments see the potential of their natural resources—their hills, streams, lakes, and grasslands. These resources can serve the people of the state far more effectively in a system of self-sufficiency.

FOR MORE INFORMATION...

Idaho's Harriman State Park: A Model for the Future? Holly Lippke Fretwell, an expert on public land policy, sees a bright future for state parks. She says innovative approaches to funding and management can make parks financially self-sufficient and also more responsive to the needs of the resources and the visitors. (PERC, 2002, 16pp.)

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Health Care

What Privacy?

Twila Brase RN

Public health nurse Twila Brase is president of Citizens' Council on Health Care.
http://www.cchconline.org

The federal medical privacy rule went into effect on April 14, 2003. It gives us no reason to celebrate.

Despite the flurry of privacy notices and irksome new obstacles to normal patient-doctor interactions, private medical records have not been protected. Instead, the federal government has authorized 600,000 clinics, hospitals, insurers, and data processing companies to dig deep into the private lives of more than 280 million individuals. For the most part, patients won't be allowed to know who's doing the digging.

State legislators now hold the key to protecting patient privacy. Stricter, more privacy-protecting state laws will take precedence over the federal rule. Topping the list of privacy violations in the federal rule—and thus topping the agenda for state legislators—are:

> *Despite its title and statements to the contrary, the rule was not written to protect patient privacy. It was written to share patient data.*

NO PATIENT CONSENT REQUIREMENT

Patient-identifiable health information can, and at times must, be disclosed without patient consent for a broad list of activities including public health surveillance, federal review of compliance, government databases, judicial proceedings, abuse or neglect reporting, national security, some medical research, workers' compensation, and organ donor solicitation activities.

FALSE ASSURANCE OF AUDIT TRAIL

The federal rule requires that inquiring patients be given an accounting of the disclosures and uses of the data an institution has released. However, the accounting need not be patient-specific and exceptions to the rule abound. If ABC law firm, XYZ credit agency, YourData corporation, or the federal government obtain medical record information, the patient need never be told.

REPORTING LOOPHOLE

Most public health and researcher use of medical record data will be done under the radar of patients. If a "limited data set"—the entire medical record minus 16 identifiers—is used, no report to patients is required. HHS acknowledged that patients can still be identified using the limited data set, but insists a data use agreement will prevent such identification. However, violations of these agreements—requirements that patients not be identified or contacted—cannot be pursued legally by HHS. Government agencies and most medical researchers are not under the jurisdiction of the rule.

PSYCHOTHERAPY NOTES NOT PROTECTED

Psychotherapy notes contain not only private statements expressed by patients, but also the thoughts and conclusions—right or wrong—of the therapist. HHS acknowledges the special privacy concerns of psychotherapy notes, but does not exempt them completely from disclosure. A therapist is permitted to disclose the notes for training programs, legal proceedings, government oversight of the therapist, and to protect the health and safety of a person or the public. And in a clear-cut case of irony, federal officials from the U.S. Department of Health and Human Services can read the notes while they evaluate the therapist's compliance with the privacy rule.

MARKETING AND FUNDRAISING

The privacy rule will not stop unwelcome phone calls and uninvited solicitations for contributions. Fundraising and marketing are not prohibited by the federal rule. Practitioners, clinics, hospitals, and insurers who hold patient data may engage in fundraising using the patient's name, address, age, other demographic data, and treatment dates. The rule requires that patients be provided with a way to opt out of fundraising, but there is no absolute prohibition against continued solicitation after the patient opts out.

Marketing is permitted if the solicitation is provided in a face-to-face conversation between a patient and his doctor or insurer. Promotional gifts of nominal value may also be sent to the patient. Clinics, hospitals, and insurers also are allowed to engage in health care operations that include contacting patients "with information about treatment alternatives."

Federal officials have declared private medical records to be public property. The rule makes medical records available without patient consent to individuals and organizations that claim a need or a right to them. That the term "privacy" is not even one of the 61 terms defined in the rule provides further evidence that, despite its title and statements to the contrary, the rule was not written to protect patient privacy. It was written to share patient data. It's about to do a very good job.

FOR MORE INFORMATION...

Summary of the HIPAA Privacy Rule. Summarizes the key elements of the federal privacy rule, aimed at addressing the use and disclosure of protected health information by organizations subject to the rule. (U.S. Department of Health & Human Services, May 2003, 25pp.)

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Law

Sex, the State, and the Supreme Court

Dana Berliner and Steve Simpson

Dana Berliner and Steve Simpson are attorneys with the Washington, DC-based Institute for Justice. A version of this article first appeared on Salon.com and is used here with permission.
http://www.ij.org

Conservatives and liberals each have a lot to learn from a case now before the U.S. Supreme Court challenging a Texas law criminalizing "homosexual conduct"—that is, sex between consenting adults of the same gender. Texas' law is fundamentally un-American, and everyone across the political spectrum should unite in opposing it. They haven't of course, but they should.

Ostensibly, the question in the case will be whether the Constitution protects a "right" to homosexual conduct. But that obscures a more fundamental issue that is too often ignored in constitutional cases: Does the government have the power to be regulating people's private lives in the first place?

The difference is not just a matter of semantics. The Declaration of Independence, which establishes the ethical foundation of American government, states that government exists to secure broad rights to "life, liberty, and the pursuit of happiness" and gains its "just powers" from the "consent of the governed." Government, in other words, must establish its authority to act. Individuals, by contrast, already have that authority and need not establish it.

Modern constitutional jurisprudence turns this principle on its head. As the Texas court saw it, the question was whether Mr. Lawrence could establish a "fundamental" right to homosexual sodomy. Since no such right has ever been recognized, the court upheld the law.

POWER INHERENTLY LIMITED

A much better approach, and one more consistent with America's founding principles, would be to require the State to justify its decision to outlaw the conduct in this case.

Lawrence and his partner are consenting adults who were engaged in private conduct within the confines of Lawrence's own home. They were harming no one.

While it is true that laws against sodomy have a long history in this country, so does the principle that government power is inherently limited. The touchstone of that limitation is harm to some identifiable third party. Since Texas can show no such harm—indeed, it did not even try—it has no authority to enter this sphere of individual conduct.

Conservatives often contend states have the authority to pass laws that express the moral sentiments of a majority of the community. The courts, they say, have no authority to intervene in those democratic decisions.

But *all* laws are passed by democratic processes and can be said to express the moral sentiments of the community. Texas claims, in essence, that laws do not need any real justification. Once passed, this argument suggests, a law is assumed to have the authority of "democratic processes" and therefore cannot be challenged in court. That is a claim everyone in America should find dangerous.

DANGERS TO THE RIGHT AND LEFT

Conservatives, especially, ought to be wary of casting their lot with the states on this issue. If the states can ban purely private conduct between consenting adults, what is to keep them from banning home schooling, or instituting mandatory preschool, or requiring parents to follow certain nutritional guidelines for their children?

> *Government ... must establish its authority to act. Individuals, by contrast, already have that authority and need not establish it.*

Unfortunately, the left's approach is no better. Where conservatives extol the virtue of state government power applied to moral or lifestyle issues, the left extols the virtues of government power applied to regulating property and economic affairs. Both sides are comfortable with the use of government power when it suits their immediate agenda ... but both ought to realize this approach is only as good as one's ability to control a particular legislature. Neither conservatives nor liberals can "pick and choose" which aspects of individual liberty are beyond government power. Privacy is worth very little, for example, if one has no property on which to practice it.

> *If the states can ban purely private conduct between consenting adults, what is to keep them from banning home schooling ...?*

America is the only country founded on the principles of individual rights and limited government. Government power must be limited if we are to live in a free society. Until everyone, of every political persuasion, takes this principle to heart, cases such as *Lawrence v. Texas* will amount to little more than political battles over one more "right," while the war over the proper role of government in our lives rages on.

FOR MORE INFORMATION...

Amicus* Brief of the Institute for Justice, *John Geddes Lawrence and Tyron Garner v. State of Texas. Institute for Justice attorneys assert on behalf of Lawrence and Garner that the case is about the proper scope of and limits on government power more than it is about homosexuality or homosexual conduct. Texas' statute exceeds the police power, they note. (Institute for Justice, January 16, 2003, 36pp.)

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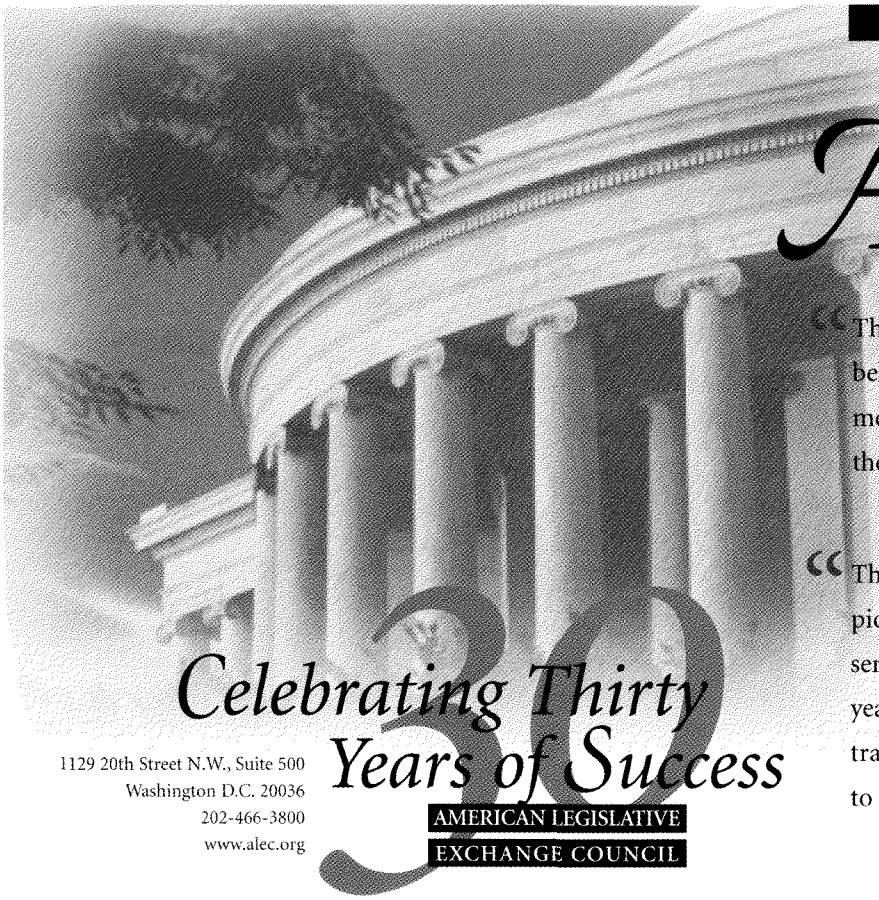

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Privatization

Geoffrey F. Segal

Geoffrey F. Segal is director of privatization and government reform policy at Reason Foundation and a research fellow at the Davenport Institute at Pepperdine University's School of Public Policy.
http://www.rppi.org

Privatization and Competition in Corrections

New research shows private prisons remain a viable alternative for addressing state budget concerns. Not only do private prisons themselves save money, but they also put external pressure on the corrections system, further constraining the escalation of costs.

Three-fifths of all U.S. states host private prisons; most of them contract with the companies to house prisoners. Studies show significant savings in the range of 5 to 20 percent. However, two new studies have taken a slightly different approach to identifying cost savings associated with prison privatization.

EFFECT ON CORRECTIONS BUDGETS

Two professors at Vanderbilt University analyzed whether the use of private prisons by state correctional departments had any impact on the rate of growth in the operating budgets of states' corrections system. While anecdotal evidence of this phenomenon existed in Texas and Arizona, a systematic analysis had never been done.

Using data for 1999-2001, the study found states that utilized private prisons had considerably more success in keeping public corrections spending under control than states with no private prisons. During the period studied, the daily cost of housing prisoners grew 8.9 percent more slowly in states with private prisons than in states without them.

In 2001, according to the study, states without private prisons spent $445 million a year on average for their corrections systems. The researchers projected the average state in that group could save $20 million a year in public prison operating costs alone by introducing competition and prison privatization. Further savings would be achieved through the actual operation of the private prisons themselves.

Importantly, the Vanderbilt University researchers also found that turning over to the private sector even the smallest of prison populations results in big savings. States with less than 5 percent of their prison population in private facilities experienced a 12.5 percent increase in expenditures over the period studied, versus an 18.9 percent increase for states without private prisons. States that had turned over larger shares of their prison populations to private management experienced even greater savings: Expenditure growth was just 5.9 percent for this group over the period studied.

PER-PRISONER SPENDING

The second study, conduced by researchers at the Rio Grande Foundation in New Mexico, compared per-prisoner department of corrections budgets across 46 states. By measuring an entire department's spending rather than just a particular prison's spending, the study accounts for the cost savings public prisons can achieve in response to private competition.

The study uses the percentage of prisoners under private management as its measurement of the extent of privatization in each state. The author controlled for factors that affect a corrections department's per-prisoner cost: market wage for prison employees, prison crowding, and labor conditions, for example.

Holding other factors constant, the Rio Grande study found states with 5 percent of their prison population in private prisons spent about $4,804 less per prisoner in 2001 than states without any privatization. As the extent of privatization increases, so do savings. New Mexico, for example, has 45 percent of its prison population under private management; it spent $9,660 less per prisoner in 2001 than did counterpart states with no privatization. New Mexico has gone farther down the prison privatization road than any other state—saving $51 million in 2001 alone, according to the Rio Grande study.

> *States with less than 5 percent of their prison population in private facilities experienced a 12.5 percent increase in expenditures over the period studied, versus an 18.9 percent increase for states without private prisons.*

While the Vanderbilt study looked at privatization's effect on the *growth* of prison expenditures over time, the Rio Grande study was more a snapshot of how privatization affected corrections spending in 2001. While the two studies didn't measure the same things, the results are complementary and tell a compelling story.

States that utilize competition and privatization for corrections save money. And the more you compete and privatize, the more money you save.

The experience of competition and privatization has been well documented across a broad range of services. These two studies represent another feather in the cap for privatization.

FOR MORE INFORMATION...

The Pros of Privately Housed Cons: New Evidence on the Cost Savings of Private Prisons. Research economist Matthew Mitchell used regression analysis to isolate the factors that affect per-prisoner department of corrections spending. States with a large percentage of prisoners in private custody spent less per-prisoner than other states. (Rio Grande Foundation, March 18, 2003, 24pp.)

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The Pitfalls of Precaution

Susan E. Dudley

Susan E. Dudley is a senior research fellow and deputy director of the Regulatory Studies Program at the Mercatus Center at George Mason University.
http://www.mercatus.org

Grandmothers everywhere, rejoice! The White House has established a new Interagency Work Group on Risk Management to examine whether regulatory policy should be built around your adage that it's better to be safe than sorry.

The group will examine current risk management practices "with an emphasis on the role of precaution in risk policy and regulation." How should regulators behave when there exists uncertainty about the likelihood or magnitude of potential harm associated with human action? Some advocate the "precautionary principle" as the guiding tenet for policies directed at public health and the environment.

While there is no widely endorsed definition of the precautionary principle, a January 1998 meeting of environmentalists crafted the Wingspread Statement on the Precautionary Principle:

> When an activity raises threats of harm to human health or the environment, precautionary measures should be taken even if some cause-and-effect relationships are not fully established scientifically.

Concerned that the "burden of scientific proof has posed a monumental barrier in the campaign to protect health and the environment," proponents turn to the precautionary principle—the "better safe than sorry" approach—so they can avoid having to justify decisions based on available evidence.

> *Whatever its merits, precaution is a risk-management technique, and there is no place for it in risk assessments.*

Variations on the precautionary principle have appeared in international environmental agreements and have been used to justify international controls or bans on various technologies. But a precautionary approach is also evident in domestic regulatory policy.

NOT BETTER SAFE THAN SORRY

Precaution is embedded in current risk assessment procedures, particularly those directed at human health risk assessments. While "better safe than sorry" may sound like common sense, such precaution may harm, rather than protect, public health.

Risk assessments based on animal studies, in particular, present a problem because they encourage agencies to focus on regulating what may be insignificant risks, perhaps forsaking more significant risks or inadvertently creating even greater risks.

For example, based on EPA studies showing the potential for a slight increase in cancer risk from trihalomethanes, a byproduct of chlorination, local water officials in Lima, Peru took the precautionary step of stopping chlorination of the city's drinking water. The result was a cholera epidemic that claimed more than 3,500 lives in 1991 alone.

The precautionary approach also fails to recognize that inaction, as well as action, bears risks. It focuses simplistically on potential dangers associated with new technologies and ignores the very real risks that could be mitigated by those technologies. For example, the time and cost involved in bringing a new drug to the market prevents new life-saving treatments from reaching people who need them, costing lives.

RISK ASSESSMENT VS. RISK MANAGEMENT

The new Work Group would benefit from reviewing a 1983 National Academy of Sciences report, which codified the process by which regulators should quantitatively evaluate risks and make policies to reduce those risks. It suggested separating the process into two parts: risk assessment and risk management.

Risk assessment is a purely scientific process that measures the risk of an activity. For example, risk assessment could estimate the risk of contracting cancer from exposure to a certain chemical over a certain length of time. Risk assessment cannot tell whether that risk is too high, or what should be done about it. That decision is made in the risk management phase.

Risk management takes scientific risk assessment information and combines it with other information, such as the cost and feasibility of reducing risks, to determine what action to take.

This appears to be a sound process. It relies on most-likely estimates of risk based on available scientific evidence, and explicitly considers tradeoffs of different actions. Unfortunately, in current regulatory policy, the results of the risk assessment phase tend to be systematically biased to overstate risk. Because of that bias, uncertain risks are likely to be weighed more heavily than more certain risks. Whatever its merits, precaution is a risk-*management* technique, and there is no place for it in risk *assessments*.

Better safe than sorry, while it rings of grandmotherly wisdom, is not a useful construct for making complex decisions about emerging risks.

FOR MORE INFORMATION...

The Paralyzing Principle. The problem with the Precautionary Principle is not that it leads in the wrong direction, but that—if taken for all it is worth—it leads in no direction at all. (Regulation, Winter 2002-2003, 6pp.)

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Taxes

Scott A. Hodge

Scott A. Hodge is executive director of the Tax Foundation.
http://www.taxfoundation.org

Today's Tax Cuts in Historical Perspective

According to the Treasury Department, there have been 18 significant federal tax cuts since the end of World War II. Two of them have been passed under the administration of George W. Bush. The 19th tax cut was just passed by Congress.

Some taxpayers and policymakers have questioned the size of the tax cut plan considering the war costs and projected deficits. The table below compares the "slimmed-down" version of President Bush's proposed tax cuts, as introduced by Ways and Means Chairman Bill Thomas, with the two largest tax cuts in the post-WW II era—the Kennedy tax cut in 1964 and the Reagan tax cut in 1981—and Bush's 2001 and 2002 tax cuts. (This table contrasts only the first year estimate of the cost of each plan because long-term scoring of tax bills was not done in 1964.)

TAX CUTS AND NATIONAL INCOME

Contrasting the size of the tax cuts with national income shows that the Kennedy tax cuts, representing 1.9 percent of income, were the single largest first-year tax cuts of the post-WW II era. The Reagan tax cuts represented 1.4 percent of income, while none of the Bush tax cuts even breaks 1 percent of income. The Kennedy tax cuts would have been surpassed in size only by combing all three Bush tax cuts into a single package.

TAX CUTS AND BUDGET RESOURCES

Comparing the size of these tax cuts with the federal budget shows the Kennedy tax cuts represented 8.8 percent of the budget. In 1981, Reagan's tax cuts represented 5.3 percent of the budget. Each of Bush's tax cuts is smaller than Reagan's. If the Bush tax cuts were combined (8.1 percent), they would be larger than Reagan's tax cuts yet smaller than Kennedy's.

TAX CUTS AND DEFENSE COSTS

When the Kennedy tax cuts were enacted, the conflict in Vietnam was escalating and defense spending constituted a whopping 42.1 percent of the federal budget. When President Reagan pushed though his tax cuts during the height of the Cold War, the Pentagon consumed 22 percent of the budget. Today, defense spending consumes just 17.1 percent of the budget: 25 percentage points below Kennedy's defense spending.

TAX CUTS AND DEFICITS

President Kennedy passed his tax cuts as he ran a deficit equaling 1 percent of national income. In 1981, Reagan cut taxes while running a deficit of 2.8 percent of national income. By contrast, Bush passed the largest of his three tax cuts in 2001 with a budget surplus of 1.5 percent of income.

Kennedy, Reagan, and Bush Tax Cuts in Historical Perspective

Tax Legislation	Tax Cut in Billions of Current Dollars (a)	Tax Cut in Billions of Constant 2003 Dollars	Tax Cut as a Percent of National Income (b)	Surplus or Deficit (-) as a Percent of National Income (b)
The Kennedy Tax Cuts—Revenue Act of 1964	-$11.5	-$54.9	-1.9%	-1.0%
The Reagan Tax Cuts—Economic Recovery Tax Act of 1981	-$38.3	-$68.7	-1.4%	-2.8%
The Bush Tax Cuts				
The Economic Growth and Tax Reform Reconciliation Act of 2001	-$73.8	-$75.8	-0.8%	1.5%
The Job Creation and Worker Assistance Act of 2002	-$51.2	-$52.0	-0.6%	-1.7%
2003 Bush/Thomas Proposal (as of May 5, 2003)	-$60.3	-$60.3	-0.6%	-3.2%
The Bush Tax Cuts if Combined in 2003	NA	-$188.1	-2.0%	-

(a) First year estimate. (b) National Income as measured by Net National Product.

Kennedy, Reagan, and Bush Tax Cuts Compared to Other Budget Items

Tax Legislation	As a Percent of Federal Budget (a)			
	Tax Relief	Social Security	Defense	All Other Domestic Spending
The Kennedy Tax Cuts—Revenue Act of 1964	8.8%	12.8%	42.1%	36.3%
The Reagan Tax Cuts—Economic Recovery Tax Act of 1981	5.3%	19.5%	22.0%	53.2%
The Bush Tax Cuts				
The Economic Growth and Tax Reform Reconciliation Act of 2001	3.8%	22.3%	15.8%	58.1%
The Job Creation and Worker Assistance Act of 2002	2.5%	22.1%	16.9%	58.5%
2003 Bush/Thomas Proposal (as of May 5, 2003)	2.7%	21.7%	17.1%	58.4%
The Bush Tax Cuts if Combined in 2003	8.1%	20.5%	16.2%	55.2%

(a) Percentages created by treating tax relief "as if" it were a budgetary item.

FOR MORE INFORMATION...

Revenue Effects of Major Tax Bills. Jerry Tempalski of the U.S. Department of the Treasury compares the revenue effects of major tax bills enacted since the federal income tax was significantly expanded in 1940. (Office of Tax Analysis, December 1998, 22pp.)

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Technology

Bartlett Cleland

Bartlett Cleland is director of the IPI Center for Technology Freedom. He was formerly Technology and Policy Counsel for Americans for Tax Reform, and earlier, counsel to Senator John Ashcroft.
http://www.ipi.org

What's the Return on High-Tech Investment?

State and local governments nationwide have been spending at record levels. In 2002, government spending devoured 15.2 percent of personal income in the U.S.—the highest level in the history of such record keeping. According to the Bureau of Economic Analysis, spending increased 4.9 percent, while personal income grew just 2.8 percent. Now, several states are scrambling to get their balance sheets to balance.

Many states continue to turn to technology as a way to increase the convenience afforded users of government services while decreasing costs. Ninety-five percent of 1,900 city governments polled in 2001 had a Web site in place or planned to have one in place within a year.

Ninety percent indicated that if they did not already provide the ability to pay tickets, taxes, and utility bills online, they soon would. For anyone who has ever stood in line on a sunny Saturday waiting to renew a driver's license, the possibility of being able to do that quickly and efficiently over the Internet is good news. This year, for example, Virginia reported that 55 percent of the state taxpayers filed their tax forms electronically.

In a time of increasing frustration with politics and government, and with state budgets largely in the red, investment in technology provides a ready answer to many concerns.

Local governments have, however, struggled with the planning and implementation of technology for the delivery of services. Several hurdles are slowing the introduction of access to government services on the World Wide Web—what's known as "e-government." Too few information technology workers, too little money, and fast-changing technology are often cited as key difficulties.

While these problems may be real, they do not provide a sufficient reason to do nothing. As often happens in government, these objections focus on a short-term problem while failing to give sufficient consideration to the long-term gain.

Even in the budget surplus days of the recent past, state and local governments refused to commit resources to forward-looking information technology, preferring instead to spend on pork barrel projects with a more obvious political payback. But increasing the role technology plays in government, particularly in situations where the government interacts directly with the taxpayer—call it G2T for government to taxpayer—will actually lead to long-term gains.

BENEFITS OF BEEFING UP TECHNOLOGY

It has been clearly demonstrated in the private sector that the increased use of technology in the workplace has resulted in incredible increases in employee productivity. Productivity increases in the private sector mean increased profits, more money for business expansion, and more job creation. In the public sector, productivity gains lead to lower expenses ... and thus lower revenue needs.

The demand side of the equation is ready for action. All taxpayers must at times interact with their government, for obtaining or renewing licenses, for example, or for paying taxes. Making those interactions convenient and efficient is a hallmark of electronic government service delivery. Taxpayers want, and use, these e-government applications. Taxpayers report e-government gives them distinct benefits they appreciate: allowing them to avoid long lines, providing more convenient hours of service, and increasing the speed of service.

Seventy-one percent of persons responding to a recent poll indicated they would be happier with an e-government system that charged a convenience fee, or a fee that pays only for the service used, rather than a system that relies on tax dollars for its funding. That offers the possibility of a winning situation for state and local governments.

Rather than raising general taxes, a politically unpopular move, governments could deploy new technologies by charging convenience fees for the specific services available online. As technology improves the productivity of service delivery, and as users become increasingly comfortable with online methods for renewing their driver's licenses or paying taxes, state and local governments will spend less to deliver better service to their constituents. The greater efficiency and lower cost of e-government will help address budget shortfalls and, over time, even make tax cuts possible.

An opportunity exists for politicians on two fronts: providing solutions for the many headaches taxpayers and voters experience while interacting with government, and reducing the cost of providing government services. In a time of increasing frustration with politics and government, and with state budgets largely in the red, investment in technology provides a ready answer to many concerns.

FOR MORE INFORMATION...

Privatization 2002: Part 3: E-Government. Chapter 3 of the Reason Public Policy Institute's 16th annual privatization report looks at international, federal, state, and local e-government initiatives. Initiatives covered include using the Internet to share information; online transactions and service provision; and integration. (Reason Public Policy Institute, 2002, 4pp.)

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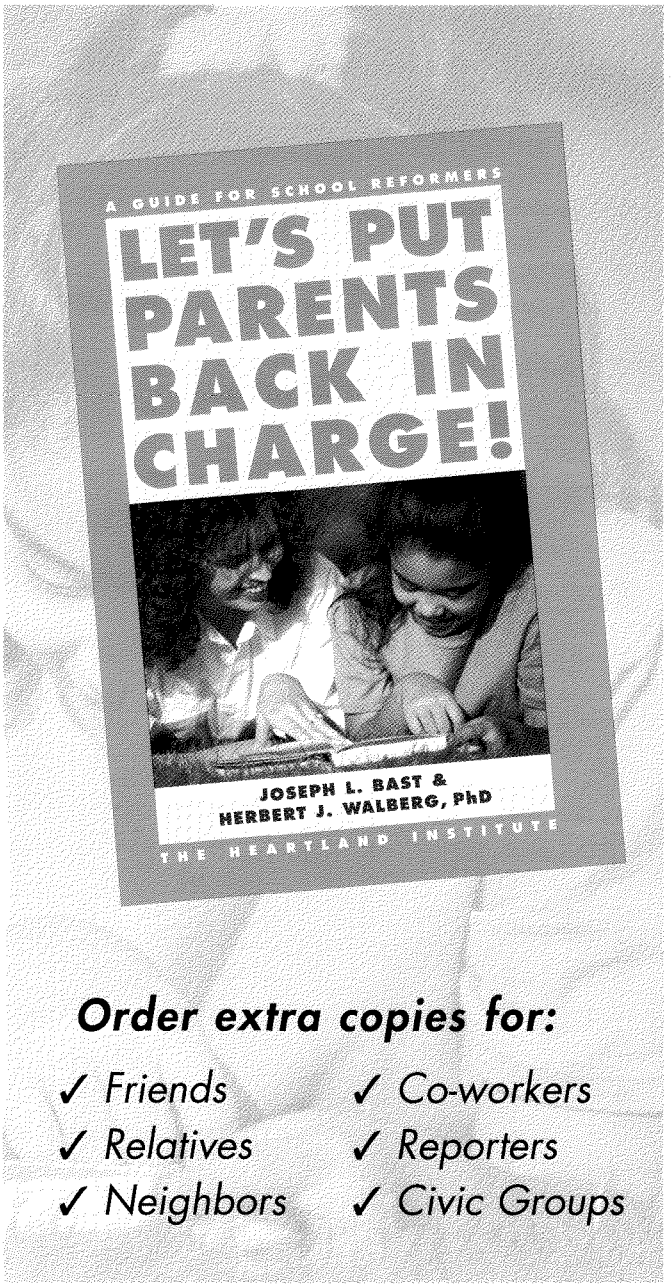
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by Joseph L. Bast &
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California's Tax Follies

by Lawrence J. McQuillan and Andrew M. Gloger

Winston Churchill once remarked: "For a nation to try to tax itself into prosperity is like a man standing in a bucket trying to lift himself up by the handle."

In California, Gov. Gray Davis and Democratic legislators have formed a bucket brigade that will fail to create prosperity, just as Gov. Pete Wilson failed with the same policies in the early 1990s.

TAX HIKES MEAN FALLING REVENUES

In 1991, facing an inherited $14.3 billion budget deficit, Wilson and state legislators agreed to raise taxes by $7.2 billion. The tax hikes included a 3/4-cent sales tax increase, expanded to cover snack foods, newspapers, and bottled water; two new personal income tax brackets; and a two-year suspension of corporate net operating loss deductions.

Politicians assumed tax rate hikes would increase long-run tax revenues, thereby closing the budget gap. It didn't happen.

State general fund revenues did rise $3.5 billion in the fiscal year the tax package took effect. This one-time increase was not surprising, since the higher tax rates were essentially applied to past economic activity.

Going forward, however, businesses and individuals changed their behavior in response to the new taxes, resulting in a revenue drop of $2 billion over the next two years. The falling receipts reflected a shrinking tax base caused by financial, physical, and human capital fleeing California for states with tax codes that better rewarded productivity and risk-taking.

> *In 1991 [after a dramatic tax increase], new manufacturing investment in California fell more than 8 percent as investors took their money elsewhere. By 1993, more than 30,000 corporations had shut down, and for the first time in California's history, more people left the state than entered.*

In 1991, new manufacturing investment in California fell more than 8 percent as investors took their money elsewhere. By 1993, more than 30,000 corporations had shut down, and for the first time in California's history, more people left the state than entered. For the third consecutive year, revenues fell short of budget estimates. By May 1993 the state faced a massive $8 billion budget gap.

Clearly the tax hikes didn't lead to prosperity. Instead, they fueled higher state spending and stifled economic growth.

TAX RELIEF SPURS RECOVERY

So how did California recover? Tax relief.

In November 1992, voters repealed the 1991 sales tax expansion. In 1993, other tax provisions—notably the suspension of net operating loss deductions—began to expire. Also, Governor Wilson began a six-year run of cutting personal, corporate, and investment taxes. Not until tax relief came did the state see significant year-to-year revenue gains and a strong economic recovery.

From 1993 to 1998, employment in California increased by 10 percent. Personal income rose 31 percent. The number of corporations increased by 10 percent. Manufacturing investment rose 68 percent. And in 1998, 120,000 more people entered the state than left.

Tax revenues also jumped, increasing 9 percent in fiscal year 1995-96, even though the two new personal income tax brackets had expired. Supply-side effects were firmly rooted by then, and revenues continued to climb during the next three fiscal years, increasing 28 percent over the period.

When Governor Davis unveiled his budget on January 10 of this year, he repeatedly invoked Wilson's name to make his case. Unfortunately, Davis chose to imitate the unreformed, pre-1993 Wilson.

MISTAKES BEING MADE NATIONWIDE

Davis proposed $8.3 billion in new taxes, including raising the sales and cigarette tax and increasing personal income tax rates. These tax hikes will destroy more than 590,000 California jobs over three years.

There are also more than 100 bills before the California legislature that will raise taxes and fees about $24 billion. California, however, is not alone.

Lawmakers in 24 states are currently considering tax hikes as a way to "solve" their fiscal problems. Legislators in California and elsewhere should learn from Wilson's early mistakes: States can't tax their way back to prosperity.

Instead, they should adopt the model of Michigan in the early 1990s and California, New York, and New Jersey after 1992. By cutting taxes, states will spark job, income, and investment growth and expand the private sector and tax base. It's time for politicians to step out of the bucket and allow the private sector to lift all to prosperity.

Lawrence J. McQuillan, Ph.D. is director of business and economic studies and Andrew M. Gloger is a public policy fellow at the California-based Pacific Research Institute.

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What Is Capitalism?

by Joseph L. Bast and Herbert J. Walberg

In July 2003, The Heartland Institute will release *Let's Put Parents Back in Charge!* a 96-page paperback book that presents the need for parental choice in education and explains how to join the school choice movement. Chapter 4 of the book, "What Is Capitalism?" is excerpted below. If you received this copy of *Intellectual Ammunition* in the mail, you're already on the list to receive a complimentary copy of this important new book. To order additional copies, see page 14.

Many criticisms of school vouchers are actually thinly veiled criticisms of capitalism, the way the economy in the U.S. (and most of the rest of the world) is organized. This is not merely a verbal trick by voucher opponents: Vouchers, after all, would rely on the institutions and processes of capitalism to educate most of the nation's roughly 45 million school-aged children.

This chapter reminds the reader of (or introduces the reader to) some basic truths about capitalism.

Capitalism is a system that relies on freedom, rather than tradition or military force, to organize the production, distribution, and consumption of wealth.

NOT A PHILOSOPHY BUT AN ECONOMY

The word "capitalism" sounds like the label of a philosophy, rather than a system of producing, distributing, and consuming goods and services. But capitalism is, in fact, just a type of economy. What distinguishes it from other economies, as economist Thomas Sowell has written, is that it is "not run by political authorities."

Unlike the economy of the household, the economies of our neighborhood, community, and nation are characterized by specialization and the division of labor. People acquire different skills, enabling them to work in groups to produce a relatively narrow range of goods in abundance. Goods can be exchanged on a regular basis, increasingly with people who are not members of the producer's household or community.

Exchange creates the problem of coordination: How much should be produced, and on what terms should it be exchanged for the products of other producers? Traditional societies give that authority to individuals or groups by virtue of their birth into a caste or ascension in a tradition-defined hierarchy. Militaristic or totalitarian societies give authority to dictators or elites, who enforce their will through the exercise of force or terror.

THREE INSTITUTIONS OF CAPITALISM

Capitalist societies use freedom to solve the coordination problem. Three institutions stand at the center of a capitalist economy: private property, markets, and the Rule of Law.

Private property. In a capitalist economy, people have rights to the fruit of their labor and whatever other property they acquire through legal means. Property includes a person's life (we own our own bodies) and liberty as well as physical possessions. Alienable property—possessions—can be sold or leased to others. Inalienable property—life and liberty—cannot be sold at any price.

Markets. Markets are where goods and services are exchanged. Producers (sellers) and consumers (buyers) meet in markets to negotiate mutually agreeable prices for the goods and services that are exchanged. In a free market, no outside authority determines or fixes those prices.

Rule of Law. Capitalism requires that rules defining property rights and the duties and rights of citizens be established, made widely known, and enforced. A key aspect of this legal system is "equality of laws to all manner of persons," or what we call the Rule of Law. Capitalism depends on the Rule of Law to prohibit coercion and fraud. Without the Rule of Law, long-term agreements and contracts would be risky or impossible, because people could not be prevented from dealing dishonestly with each other.

HOW CAPITALISM WORKS

To see how capitalism works, picture two people meeting in a market, one with something to sell and the other looking to buy the same item. The buyer and seller will engage in trade voluntarily only if both expect to benefit from the exchange. An object worth relatively little to one person may be worth more to another, because their wants, opportunities, and perspectives are different. The stage is set for a mutually beneficial and voluntary trade.

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When many buyers and sellers meet in markets to exchange goods and services, their offers and bids create prices that can be posted, advertised, and otherwise made known. This feature distinguishes capitalist economies from all other economic systems. Prices reflect each individual buyer's and seller's knowledge of particular circumstances of time and place, a huge body of information that cannot be known to any one person. Prices act as signals telling producers what consumers are willing to buy, and consumers what producers are willing to sell.

In a capitalist system, assets such as land are privately owned and can be bought and sold freely. Those who think they can put a particular piece of property to better use than its current owner can bid to own it. The owner of the under-performing property has an incentive to sell it to the highest bidder, who is able to pay more than what the property is worth to its current owner. The result is that property tends to find its way into the hands of those who can put it to its best and highest use, thereby minimizing waste and reducing costs.

The discovery that private property, markets, and the Rule of Law together create an economy that works best without government management is generally attributed to Adam Smith (1723-1790).

Entrepreneurs are people alert to opportunities to make profits by putting resources to better use. They anticipate what consumers want, how much they are willing to pay for it, and how much it will cost in the future to provide it. Entrepreneurs whose forecasts are most accurate, and businesses that produce most efficiently the products consumers want, are rewarded by being able to sell the most product. Entrepreneurs who guess wrong and businesses that are inefficient producers will sell less, and possibly stop producing products altogether. As a result of this competition, those businesses that remain in the market are the ones that most accurately anticipate and most efficiently meet consumer wants, and the prices they charge tend to be the average or typical market price.

Profits are necessary to the entrepreneurial process. The prospect of profits determines how much a business invests in producing a product. At any given time countless opportunities are being created and disappearing in a large and complex economy. The profit motive harnesses the knowledge and self-interest of many competing producers and potential producers of goods and services to determine which opportunities should be acted on and which passed over.

Although much planning takes place in a capitalist economy, there is no central plan or planner.

Competition among producers (sellers) and consumers (buyers) ensures the profits earned by entrepreneurs and the prices paid by consumers tend to be driven down toward the lowest level a producer is able to accept and still have enough money to produce the product. If one producer tries to keep his prices too much higher than his cost of production, the profit motive causes other producers to try taking orders away by offering a lower price. In this way, competition and choice ensure better goods and services are available at lower cost to consumers who most value them.

Competition works to limit the profits that entrepreneurs and businesses are able to earn. In a typical year in the U.S., profits amount to less than 6 percent of national income, and from 1968 to 1998 they did not exceed 9 percent. This would seem to be a reasonable price to pay for the important role profits play in directing resources to where they are most needed.

MARKETS VERSUS GOVERNMENT INTERVENTION

The discovery that private property, markets, and the Rule of Law together create an economy that works best without government management is generally attributed to Adam Smith (1723-1790). In *The Wealth of Nations*, published in 1776, Smith wrote that each of us, though we aim at only our own gain, is "led by an invisible hand to promote an end which was no part" of our intention, which is the public or common good. Self-interest guides consumers to the most efficient producers (who can offer the best value for money), and competition among producers ensures innovation and efficiency are rewarded.

Many efforts have been made by many countries to make capitalism "more efficient" by interfering in one of the three key institutions of capitalism. Surely human planning can produce better results than the spontaneous outcome of unplanned and unthinking markets! But such efforts have rarely, if ever, succeeded.

This does not mean there is no role at all for government to play. Adam Smith and many leading defenders of capitalism found room in their theories for a substantial role for government. For example, Milton Friedman says "the need for government arises because absolute freedom is impossible. However attractive anarchy may be as a philosophy, it is not feasible in a world of imperfect men."

Government has an important role to play, but it must not undermine the key institutions of private property, markets, and the Rule of Law if economic growth and prosperity are to occur.

BRIEFLY PUT

Capitalism is a system that relies on freedom, rather than tradition or military force, to organize the production, distribution, and consumption of wealth. Its key institutions are private property, markets, and the Rule of Law. Two key elements of capitalism are prices and profits, which make it possible for producers and consumers to make the best choices.

Although much planning takes place in a capitalist economy, there is no central plan or planner. Instead, capitalism's institutions and the profits, prices, and other instruments it creates form a spontaneous order, continuously adjusting to new information, fulfilling needs, and discovering new opportunities. Efforts to "improve capitalism" by planning have usually failed.

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The Federal Deficit: Friend or Foe?

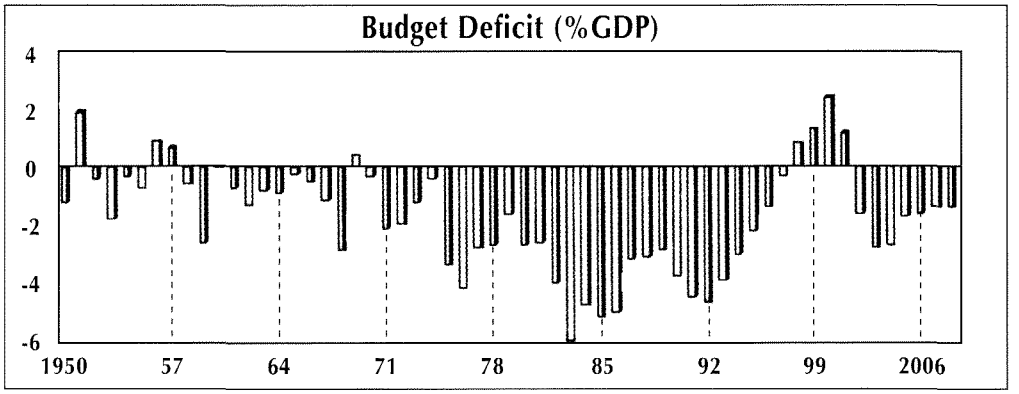
by John W. Skorburg

According to federal budget figures recently released by the President's Office of Management and Budget, deficits are expected through the entire forecast horizon. At first glance, this trend appears to be rather unhealthy. But the projected deficits are not "out of line" when measured against the size of the overall economy over the past 50 years.

The current episode of budget deficits is relatively minor when compared to budget deficits run from the mid-1970s to the mid-1990s. While current deficits will run at about 2 percent of GDP on average, only a single year from 1975 to 1995 met that same definition—the rest were much higher.

Based on the proposed Bush budget, by 2008, the deficit will be 1.4 percent of GDP. That would be close to, even less than, the "average deficit" of the past 50 years. From 1950 to 1970, most deficits were less than 2 percent of the economy, and those small deficits cancel out some of the big ones of the later years.

According to the Tax Foundation, the average post-WWII deficit as a percent of GDP is 1.6 percent (1946-2002). Over the entire 50 years, only eight years have been in surplus.



USE DEBT WISELY

The best policy is to refrain from running large financial deficits that lead to excessive debt. Deficits mean entities are spending more than they take in; in the long run, this leads to too much debt and possible bankruptcy. Debt should be used judiciously. That is true for governments as well as for individuals.

But it is also true that the U.S. economy has almost continually had some public debt. Are we as a nation getting better or worse at handling our debt?

The use of public debt by government has gotten better since the "debt build-up" caused by World War II. The U.S. government debt cycle hit a trough right before the 1974-75 recession and then rose into the mid-1990s. Debt burdens of 20 percent of GDP (in 1974) rose to more than 40 percent of GDP (early 1990s).

The Bush budget predicts public debt as a percent of GDP at 36.4 percent by the end of the forecast horizon. In short, the nation's debt load has been better, but it also has been worse.

President Bush's budget approaches a 40 percent debt burden largely because of the war on terrorism, the war in Iraq, and slower economic growth. Without a weak economy and the emphasis on a new homeland security department, public debt as a percent of GDP would still be going down, as predicted in earlier budgets.

A balanced budget in the late 1990s is now in deficit, due to recession (lower receipts) and homeland security (increased spending). Our nation can, however, get back to budget balance. It has been done before—as recently as 2001.

SHORT-TERM DEFICITS ARE NOT A CRISIS

Historically, federal receipts as a percent of GDP generally have remained below 20 percent of GDP. When this measure nears 20 percent, taxes appear to be too high for economic growth, and tax cuts are in order. Tax cuts lead to higher economic growth (raising aggregate demand), while tax hikes tend to slow the economy (reducing aggregate demand).

The Bush budget keeps both spending and receipts at less than 20 percent of GDP. At the end of the forecast horizon, spending is at 19.7 percent of GDP and revenues at 18.3 percent. The budget proposal curbs spending on the seemingly unlimited needs, wants, and desires of American taxpayers and their representatives in the federal government. The proposal also keeps federal revenues reasonably low. The economy can be expected to grow under this scenario even though the budget is in deficit.

John W. Skorburg is senior economist for the American Farm Bureau Federation and serves on the Board of Directors of The Heartland Institute.

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Lansing, MI 48909-7514

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520 Farnum Building
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New Prague, MN 56071

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State of Minnesota
591 Cretin Avenue
St. Paul, MN 55116

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Secretary of State
State of Minnesota
174 State Office Building
St. Paul, MN 55155

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State Senator
State of Minnesota
111 East Lincoln
Fergus Falls, MN 56537

Hon. Mary Ellen Otremba
State Representative
State of Minnesota
Route 2 Box 17
Long Prairie, MN
56347-9561

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State Representative
State of Mississippi
PO Drawer 105
Canton, MS 39046

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State of Mississippi
PO Box 8173
Greenwood, MS 38930

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State Representative
State of Mississippi
153 Spence Drive
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State of Mississippi
PO Box 211
Schlater, MS 38952-0211

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State of Missouri
PO Box 127
Reeds Spring, MO 65737

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State of Missouri
1602 Timberlake Manor
Parkway
Chesterfield, MO 63017-5500

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State of Missouri
249 Country Road 534
Caruthersville, MO 63830

Hon. Harold R. Selby
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State of Missouri
5548 Twilight
Cedar Hill, MO 63016

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10525 Mullen Road
Omaha, NE 68124

Hon. Pam Redfield
State Senator
State of Nebraska
5036 South 94th Avenue
Omaha, NE 68127

Hon. Floyd P. Vrtiska
State Senator
State of Nebraska
706 Wyoming Street
Table Rock, NE 68447

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State Representative
State of Nevada
9428 Grenville Avenue
Las Vegas, NV 89134-6206

Hon. Don Gustavson
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State of Nevada
401 South Carson Street
Carson City, NV 89701-4747

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State Representative
State of New Hampshire
12 Paige Drive
Merrimack, NH
03054-2837

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State of New Hampshire
Star Route W #113
Alton Bay, NH 03810-9713

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State of New Hampshire
135 Rock Strain Drive
Littleton, NH 03561-4515

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State of New Hampshire
One Bradford Street
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State of New Hampshire
56 Durham Road
Dover, NH 03820

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State House
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19 Dane Street
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Cresskill, NJ 07626

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124 West Washington Avenue
Washington, NJ 07882

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10216 Carraro Place NW
Albuquerque, NM 87114

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Albuquerque, NM 87123

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7716 Lamplighter NE
Albuquerque, NM 87109

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Route 1 Box 102
Santa Fe, NM 87501

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Geneva, NY 14456

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33-46 92nd Street #1W
Jackson Heights, NY 11372

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State of New York
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Glendale, NY 11385

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Williamsville, NY 14221-6737

Ms. Sharon Rich
Chief of Staff
Sen. Mary Lou Rath
5500 Main Street #260
Williamsville, NY 14221

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61-08 224th Street
Bayside, NY 11364

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State of North Carolina
1515-1C New Garden Road
Greensboro, NC 27410

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State of North Carolina
PO Box 1206
Oxford, NC 27565

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328 North Spring Street
Winston-Salem, NC 27101

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330 South Salisbury Street
Mocksville, NC 27028

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State of North Dakota
408 First Street SW
Bowman, ND 58623-9753

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State of North Dakota
4234 9th Avenue Circle SW #35
Fargo, ND 58103

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State Representative
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1128 Westrac Drive
Fargo, ND 58103

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1042 12th Avenue West
Dickinson, ND 58601-3654

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5300 Hamilton Avenue #18C
Cincinnati, OH 45224

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2736 Bexley Park Road
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State of Ohio
1131 Little Indian Creek Road
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2097 Beach Grove Drive
Cincinnati, OH 45233

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3578 Sunset Drive
Columbus, OH 43221-1136

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State of Oklahoma
3403 36th Avenue NE
Norman, OK 73026

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4001 Kim Drive
Del City, OK 73115

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State of Oklahoma
1319 Alviola Avenue
Midwest City, OK 73110

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Route 1 Box 164-A
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Tulsa, OK 74105

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State of Oklahoma
646 Meadowook Drive
Broken Arrow, OK 74011-8613

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PO Box 237
Ada, OK 74820

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3911 Rolling Oaks Drive
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1402 Suggett
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Edmond, OK 73013

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State of Oklahoma
1826 Southview
Bartlesville, OK 74003

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Albany, OR 97321

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State of Oregon
7544 SW Roanoke Drive
North Wilsonville, OR
97070-6801

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Jenkintown, PA 19046

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Cranberry Township, PA 16066

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Philadelphia, PA 19143

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Pittsburgh, PA 15214

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2307 Bedford Street
Johnstown, PA 15904

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Conway, SC 29528

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PO Box 203
Due West, SC 29639-0203

Hon. Lewis R. Vaughn
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State of South Carolina
623 Ashley-Commons Court
Greer, SC 29651

SOUTH DAKOTA

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State Senator
State of South Dakota
1718 Teton Pass
Brookings, SD 57006-2136

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State of South Dakota
PO Box 9242
Rapid City, SD 57709-9242

Hon. Arlene H. Ham
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State of South Dakota
1116 Crestridge Court
Rapid City, SD 57701

Hon. Ted A. Klaudt
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State of South Dakota
10250 Walker Road
Walker, SD 57659-7501

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State of South Dakota
PO Box 687
Sturgis, SD 57785-0687

Hon. Ed Olson
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State of South Dakota
41141 252nd Street
Mitchell, SD 57301

Hon. Lee Schoenbeck
State Senator
State of South Dakota
PO Box 1325
Watertown, SD 57201-6325

Hon. Hal Wick
State Representative
State of South Dakota
3009 Donahue Drive
Sioux Falls, SD 57105

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State of Tennessee
235 Eagle Bluff Road
Jacksboro, TN 37757

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State of Tennessee
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State of Tennessee
209 War Memorial Boulevard
Nashville, TN 37243

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PO Box 2221
Bristol, TN 37621

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Crossville, TN 38555

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State of Tennessee
4013 Port Cleburne Lane
Hermitage, TN 37076

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State of Texas
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Pampa, TX 79066

Hon. Frank J. Corte Jr.
State Representative
State of Texas
2040 Babcock Road #402
San Antonio, TX 78229

Hon. Kay Granger
U.S. Representative
State of Texas
435 Cannon House
Office Building
Washington, DC
20515-4312

Hon. Charlie Howard
State Representative
State of Texas
14100 SW Freeway #200
Sugarland, TX 77478

Hon. Jesse W. Jones
State Representative
State of Texas
7125 Marvin D. Love Freeway
#325
Dallas, TX 75237

Hon. Tommy Merritt
State Representative
State of Texas
201 Estes
Longview, TX 75603

Hon. Manny Najera
State Representative
State of Texas
1716 Mike Hill Drive
El Paso, TX 79936-4611

Hon. Todd Staples
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State of Texas
504 East Hodges
Palestine, TX 75801

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State Representative
State of Texas
3622 Fairmont
Pasadena, TX 77504

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State Representative
State of Texas
201 West Ellison Street #201
Burleson, TX 76028

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State of Utah
138 Locust Street
Clearfield, UT 84015

Hon. David N. Cox
State Representative
State of Utah
7812 North 8350 West
Lehi, UT 84043

Hon. Brent H. Goodfellow
State Representative
State of Utah
3620 South 6000 West
West Valley City, UT
84128-2612

Hon. Kory M. Holdaway
State Representative
State of Utah
4352 Rupp Court
Taylorsville, UT 84119

VERMONT

Hon. Thomas F. Koch
State Representative
State of Vermont
326 Lowery Road
Barre, VT 05641

Hon. Frank M. Mazur
State Representative
State of Vermont
52 Bartlett Bay Road
South Burlington, VT 05403

VIRGINIA

Hon. John S. Edwards
State Senator
Commonwealth of Virginia
PO Box 1179
Roanoke, VA 24006-1179

Hon. Allen L. Louderback
State Representative
Commonwealth of Virginia
1131 Old Farms Road
Luray, VA 22835

Hon. Stephen H. Martin
State Senator
Commonwealth of Virginia
PO Box 700
Chesterfield, VA 23832

Hon. Robert D. Orrock Sr.
State Representative
Commonwealth of Virginia
PO Box 458
Thornburg, VA 22565

Hon. Frank M. Ruff
State Senator
Commonwealth of Virginia
PO Box 332
Clarksville, VA 23927

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Hon. Brad Benson
State Representative
State of Washington
PO Box 40600
Olympia, WA 98504-0600

Hon. Fred Jarrett
State Representative
State of Washington
PO Box 40600
Olympia, WA 98504-0600

Hon. Jan Shabro
State Representative
State of Washington
PO Box 40600
Olympia, WA 98504-0600

WEST VIRGINIA

Hon. Earnest H. Kuhn
State Representative
State of West Virginia
PO Box 163
Van, WV 25206

Hon. William R. Sharpe Jr.
State Senator
State of West Virginia
607 Center Avenue
Weston, WV
26452-2122

Hon. Douglas K. Stalnaker
State Representative
State of West Virginia
568 West Second Street
Weston, WV 26452

WISCONSIN

Hon. Glenn Grothman
State Representative
State of Wisconsin
111 South Sixth Avenue
West Bend, WI 53095

Hon. Ted Kanavas
State Senator
State of Wisconsin
17570 Sierra Lane
Brookfield, WI 53045

Hon. Frank G. Lasee
State Representative
State of Wisconsin
1601 Riverbend Terrace
Green Bay, WI 54311

Hon. Stephen L. Nass
State Representative
State of Wisconsin
421 Maple Street
Palmyra, WI 53156-9664

Hon. Luther S. Olsen
State Representative
State of Wisconsin
334 Center Street #6
Berlin, WI 54923

Hon. John F. Townsend
State Representative
State of Wisconsin
PO Box 8953
Madison, WI 53708-8953

Hon. Daniel P. Vrakas
State Representative
State of Wisconsin
N45 W28912 Capitol Drive
Hartland, WI 53029

Hon. Robert T. Welch
State Senator
State of Wisconsin
PO Box 523
Redgranite, WI 54970

WYOMING

Hon. Rodney Anderson
State Representative
State of Wyoming
PO Box 338
Pine Bluffs, WY 82082

Hon. Harry B. Tipton
State Representative
State of Wyoming
745 Buena Vista
Lander, WY 82520

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This is your final issue of *Intellectual Ammunition*

During 11 years of continuous publication, *Intellectual Ammunition* has featured the country's leading public policy experts addressing all the major public policy issues. But what was once a unique source of research and commentary has gradually been supplemented, and now will be replaced, by other publications and information services provided by The Heartland Institute.

Every state and national elected official in the U.S. is sent *Health Care News, School Reform News, and Environment & Climate News*. If you aren't sure you are receiving these publications, check the mailing information at the bottom of this page and send corrections by fax to 312/377-5000 or call 312/377-4000. To use *PolicyBot* or sign up for e-newsletters, go to **www.heartland.org**.

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Health Care News is Heartland's monthly newspaper devoted to consumer-directed health care reform. Each issue documents the rising cost of health insurance, threats to patient privacy, and growing regulatory burden on doctors and health care providers, while also describing promising reform strategies such as Medical Savings Accounts, insurance tax credits, and deregulation.

School Reform News reports from the front lines of the national movement for parental choice in education. This monthly newspaper covers current controversies such as stagnant test scores, weak curriculum, and abuse of power by teacher unions, as well as recent victories for advocates of such parent-empowering reforms as vouchers, charter schools, and tuition tax credits.

Environment & Climate News covers the latest research and news on efforts to protect the environment, with a special focus on sound science and market-based approaches. *E&CN* exposes the exaggeration and scare tactics of the radical environmental movement and advances instead a common-sense approach to environmentalism that respects private property rights and individual freedom.

COMING IN NOVEMBER! The Heartland Institute's newest publication, ***Budget & Tax News***, will address efforts at the state and national level to balance budgets without increasing taxes. Each monthly issue will feature states that have found ways to cut spending and encourage economic growth, along with the latest research and commentary on tax and spending issues at the federal level.

The Heartland Institute
19 South LaSalle, Suite 903
Chicago, Illinois 60603

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